



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

THE INITIATIVE OF THE PRESIDENT.*

It is sunset at Jolo and Zamboanga, and dawn on New England's rugged coast. The last glance of the god of day is reflected from the bayonet of the lonely sentinel who walks his beat on the uttermost island of that distant archipelago. The "rosy blush of incense breathing morn" glorifies these historical waters, and the rushing floods of his oncoming light bathe the marble of that shaft in Washington which commemorates a nation's love for the father of his country.

Throughout his diurnal progress, if progressive at all, that self-same orb has rejoiced that not for a moment has he been able to lose sight of the stars and stripes. In all his journey, there was nothing fairer or more enchanting than that city founded by the argonauts of '49, whose glories have been painted by the fascinating narrative of Stevenson, the witching fancy of Bret Harte. Brilliant, joyous, daring San Francisco, combining the enchantment of that city by the Seine, typical of all that is charming in the genius and love of beauty of the French people, with the Oriental mysteries of Bagdad, in the palmy days of Haroun-al-Raschid. There one evening little more than a month ago as the sun sunk behind the Farallones, it stood instinct with life, energy, hope and such happiness as is accorded to man. With the succeeding dawn its crumbling buildings were death traps. Of its people many were dead, thousands in agony and despair, and, more terrible than all, was the glare and roar of the on-coming conflagration. A quarter of a million of men, women, children shiver on the hills hard by. The railroads have sunken into the earth, the earthquake has riven the water pipes which bring the life-giving supply. There too, were demons in human form. Such creatures, in the presence of helpless and suffering innocence, relapse to the cruelty, the merciless outrage of the savage. Has hope taken flight of earth? Ah, no, there is yet hope. Across the continent there is one whose prompt soul is instinct with love and pity for his fellowmen. He is in the White House. The dreadful story comes. He takes counsel of his courage. Back flashes to a man after his own heart, the gallant Funston: "Take

*Fifth Lecture on the Storrs Foundation, May, 1906.—[Ed.]

instant charge, declare martial law, suppress disorder, protect the people, use every arm of the service ashore and every ship upon the waters." Swift appeal is made to Congress. Nothing loath, that noble body throws open the treasury and disburses millions to our suffering countrymen. And before the fires are extinguished and the subterranean forces of nature cease to mutter, order reigns in San Francisco, and the heart of a noble people inspired by the example of their president for their suffering brethren, pour out their treasures like water. And yet, in vain would a certain school of constructionists look for any word or syllable of the constitution which justifies this or any similar action on the part of the president. Nor does this pass without attention. When the resolution is offered to appropriate two millions for the sufferers, Mr. Williams, the leader of the minority, addressed the chair, as follows: "Mr. Speaker, if the gentleman will yield to me for a moment, I wish to say that this legislation is of such exceptional and emergency character, that it ought to over-ride all preformed conclusions. For that reason I shall not object to unanimous consent for its consideration." Our countrymen will ever accord their respect to that sturdy minority which in the presence of an exigency so great has laid aside "preformed conclusions" and remembered only that they are Americans. But there is another view of it.

It is true that we have a written constitution, but the fundamental law is not all in the written page. Notwithstanding the "preformed conclusions" of the distinguished leader of the minority and of men of every party who may think with him, it is with deference submitted that indisputable precedents, and the evolution of the American system authorizes the initiative of the president as the direct representative of the people in this case and in all equivalent cases, whether they affect the safety of that people, the peace of the United States, or the strength and honor of the nation itself. It is further submitted that this is now as clearly within the constitution as if the power had been literally and expressly granted by the original instrument itself. As ours is always described as written, so the English Constitution is termed unwritten. This, however, cannot be regarded as strictly true. There are certain famous parchments in writing, which are, so far as they go, as distinctly a written constitution as our own, which Mr. Gladstone in his famous eulogium declared was "struck off in a given period by the brain and purpose of man."

There is *Magna Charta*. While nominally a concession from the crown, the Great Charter was the result of a treaty between the

nation on the one hand, and the king on the other. The king and the people were at issue. The opposing and hostile forces were encamped on either bank of the Thames opposite the island of Runnymede, as were the armies of Napoleon and Alexander of Russia, when those monarchs met on a raft midway the river Niemen and signed the treaty of Tilsit. The Great Charter is therefore a treaty in writing between the king on the one side and the church, the barons and the commons for the first time thoroughly at one on the other. Here we find written certain principles, most sacred, of government, now also immovably anchored in our constitution.

The agreement between the king and Parliament upon the Petition of Right was not without resemblance to the compact of *Magna Charta*.

You will recall the state to which the English people had been reduced by the profligacy and selfishness of Buckingham, and the blinded favoritism of his royal master, Charles the First. The king had demanded of the Parliament, for his army and navy, what were great sums in that day. This was demanded under the pretence of public danger. But the demand was accompanied with one of those threats which have always aroused the spirit of resistance among men of our race. "Every man," said the king in his speech, "must do according to his conscience; wherefore if you (which God forbid) should not do your duties in contributing what the state at this time needs, I must, in discharge of my conscience, use those other means, which God hath put into my hands to save that which the follies of some particular men may otherwise hazard to lose." With the imprisonment of Digges and Elliott, and of the five knights, with the removal of the judges, and the arrest of many of their own members fresh in mind, it was not difficult for Parliament to understand the royal meaning. In that famous body there was neither variableness nor shadow of turning. Wentworth demanded that there should be no more forced loans, no more political imprisonment, no more compulsory employments abroad, no billeting of soldiers without the consent of the household. The supplies demanded by Charles were withheld. The royal word of the monarch was offered as pledge that every freeman should have a fundamental property in his goods, and a fundamental liberty of his person, but the house declined to accept the pledge of his majesty's honor. Coke declared: "Let us put up a petition of right, not that I distrust the king, but I cannot take his trust save in a parliamentary way." The famous document was prepared, and the king with the utmost reluctance gave his assent.

A half century had elapsed. The first Charles who had assented to the Petition of Right, because of his utter disregard of its provisions had met his fate at the hands of his stern and relentless countrymen. The great protector was now no more. The second Charles, dissolute son of a tyrant father, had taken his place among the shadows of royalty. An exile from the wrath of a betrayed and outraged people was his uncle and successor, the second James, a man in whom the merciless cruelty of the monarch was equalled by the narrowness and intolerance of the bigot. William of Orange had landed at Torbay, and had marched on London. Parliament was summoned in a manner which had perhaps been justified by precedent and was subsequently ratified. It then became the duty of that body to define the conditions upon which the act of succession should be passed and the crown settled upon the prince of Orange and his consort. A young lawyer, John Somers, was selected to draw the famous Declaration of Right. This sterling patriot had been one of the counsel for the seven bishops of the Anglican church when, for conscience sake, they had been recently arraigned before the servile judges of James. He had risen last. He spoke scarcely more than five minutes, and sat down with a reputation as a constitutional lawyer and orator which has never grown dim. After the recitation in this declaration of the grievances which the English people had sustained, he enumerated their rights and privileges. Of the rights thus stated, one or two relate to possibilities of strife between the devotees of particular faiths, with which the American people have not as yet been concerned. All the others may in effective substance be found in our constitution as first adopted, or in the amendments which were proposed by the first Congress and subsequently adopted by the people.

At the palace of Whitehall on the 13th of February, 1689, the great convention composed of the estates of the realm and the commons of England met the prince and princess of Orange. In a loud voice the declaration was read by the clerk of the House of Lords. Halifax, speaking in the name of the estates, requested the royal couple to accept the crown upon the terms stated. Whereupon William, speaking for himself and his wife, declared: "We thankfully accept what you have offered us," and gave assurance of their common resolve to uphold the laws and government, with the advice of Parliament.

In the evolution of free government there was but a span between the Declaration of Right and the American Constitution. Not quite fourteen years after this memorable scene at Whitehall in a house

opposite the old South Church on Milk street in Boston, there was born a child, the fifteenth out of a brood of seventeen. It is probably true that the annals of the human race afford no account of another who came to excel him in love of freedom, practical wisdom, knowledge of his fellowmen, power of diplomacy, and persuasive influence upon the times in which he lived and upon subsequent times. Eighty-one years thereafter the name was appended to the Constitution of the United States. It is the name, Benjamin Franklin.

It is possible that others among the leading members of the constitutional convention were contemporaries of the younger members of the Parliament which exacted the Declaration of Right. Certain it is that most of them were familiar with every struggle for liberty made by the intrepid race from which we spring. Certain it is that they knew the history of

That land of old and great renown
Where Freedom broadens slowly down
From precedent to precedent.

Certain it is that every colony started out by adopting the whole body of English statutory or customary law. The framers of the constitution also knew what Freeman has declared in his "Growth of the English Constitution," that the English people "have a whole system of political morality, a whole code of precepts, for the guidance of public men, which will not be found in any page of either the statutes, or the common law, but which are in practice hardly less sacred than any principle embodied in the Great Charter, or in the Petition of Right. In short," declared this instructive writer, "by the side of our written law there has grown up an unwritten or conventional constitution." The framers knew that *Magna Charta* was no novel doctrine; that it was but a reiteration of the laws of Edward the Confessor, to which Stephen Langdon, the noble primate of England, had sought to swear the tyrant, of whom it had been said: "Foul as it is, hell itself is defiled by the presence of John;" they knew that the principles of the Great Charter were so familiar that it was discussed, agreed upon and signed in a single day; they knew that to the tribal bond of the Anglo-Saxon we may trace the right of trial by jurors of the vicinage; that while other nations were lapsing into that popular lethargy which is the sure outcome of unresisted despotism, Englishmen were more and more worshipping their laws; that when the tyrant James rated his judges because they would not admit him to their consultations, Sir Edward Coke exclaimed: "I will act as it becomes a judge to act;" that when to John Hampden an unconstitutional measure was proposed, he

declared: "I should be content but that I fear to draw on myself that curse in *Magna Charta* which should be read twice a year against those who would infringe it." How natural is it, therefore, that *Magna Charta*, the Petition of Right, and the Declaration of Right, should each glow with undying heat and with unfading luster in the Constitution of the United States. Great as the eulogist, lofty as the eulogium, it was then not true as Mr. Gladstone declared, that our constitution was a work "struck out in a given period by the brain and purpose of man," but on the contrary it is true that many of its vital basic principles had their origin probably as early as the fifth century after Christ under the oaken homesteads and amid the sand and heather of those hyperborean shores jutting into the North sea, the primeval home of the English race.

To the convention of 1787 many of the states had taken care to send the older patriots. First of all, George Washington. Of Franklin it might have been declared as Homer said of Nestor that he "had ruled over three generations of men and was as wise as the immortal gods." From that famous college at the capital of the Old Dominion, which had been named William and Mary, in honor of the royal pair who but a little while before had restored their ancient privileges to Englishmen, came John Blair. He had been a student of law at the Temple, was now Chief Justice of Virginia and was thereafter to become, by Washington's appointment, Associate Justice of the Supreme Court of the United States. There too was George Wythe, long a member of the Virginia House of Burgesses before the revolution. He had signed the Declaration of Independence. He was chancellor of the state. In his office two presidents, Jefferson and Madison, had acquired the rudiments of their profession. Another student of his was John Marshall. And afterward, an untutored youth from the slashes of Hanover county was admitted as his clerk, to absorb all the law he ever knew; thence to turn his face to the westward, to cross the blue Virginian mountains and in the heart of the Blue Grass, by winning and persuasive eloquence, by attractive and manly enthusiasm, to win the place of Henry Clay in the affection of his countrymen. There too was that incomparable pair, Hamilton and Madison. James Wilson, a graduate of the universities of Glasgow, of St. Andrews, and of Edinburgh. There too was the brilliant, fascinating and versatile Gouverneur Morris, to whose graceful pen is largely ascribable the lucid English of our organic law. Rutledge of South Carolina, like Blair of Virginia, read law at the Inns of court. Charles Cotesworth Pinckney, from the same state, educated at Oxford, had heard

those lectures of Blackstone, which found the English law a skeleton, and clothed it with life and beauty. He lived to confound the insidious greed of Talleyrand with the memorable expression: "Millions for defense but not a cent for tribute." My own state of Georgia sent its strongest delegate, Abraham Baldwin, a graduate of Yale, a tutor in that college, and the relative of another of the name whose copious and exact learning, discriminating mind, modest and manly example, we trust, under the Providence of God, may be spared long, for the administration of his country's laws, and for the training and uplifting in this noble institution of his country's youth.

It is of course quite impossible to mention all of the illustrious names in that famous body, but from Connecticut, and also from Yale, came William Samuel Johnson, the friend of Dr. Samuel Johnson, the great lexicographer, the intimate of Reynolds and Goldsmith, of Oglethorpe and Burke. There too was Oliver Ellsworth, a graduate of Princeton, subsequently appointed by Washington as Chief Justice of the United States. He, with Johnson, was the author of the Judiciary Act of 1789, as yet undisturbed as the foundation of our national judicial system. There too was Roger Sherman. Of all the members who signed the constitution this great man was the only one who also signed the other famous national compacts, namely: the Articles of Confederation, the Declaration of Independence, and the Association of 1774. Mr. Bancroft declares: "The master builders of the constitution were Roger Sherman, George Washington, Charles Cotesworth Pinckney, James Madison and Alexander Hamilton." The reputation of Roger Sherman for exquisite judgment is probably due to the fact that he would not if he could help it decide a doubtful or perplexing question without submitting it for the opinion of some intelligent woman. This great man had more than ordinary opportunity to consult the unerring intuitions of the womanly mind. He was twice married. His second wife was the beautiful Rebecca Prescott. It is related that on one occasion while visiting her husband at the seat of government she was invited to a state dinner by Washington and conducted to the table by the general himself and given the seat of honor on his right. When complaint was made to his secretary by Madam Hancock, that her rank entitled her to that distinction, the father of his country replied that he deemed it his privilege to give his arm to the handsomest woman in the room. History is discreetly silent as to the effect on the fair complainant of this executive explanation. Roger Sherman and his beautiful wife were the grandparents of two

illustrious men of our own times, the late William M. Evarts and the late George F. Hoar.

It would have been then, and would be now, difficult to assemble at Westminster Hall an assembly more distinctly English in blood than was the Constitutional Convention. Wherever the Huguenot strain appeared its possessor was quite as devoted as the English strain to the effective principles of freedom as perpetuated by the English law. The descendant of men and women who had escaped the swords and halberds of St. Bartholomew, or who had been exiled by the revocation of the Edict of Nantes, was not less fierce in his love of liberty than the descendant of those who had dared the storms of the North Atlantic in the Mayflower, or who at Dunbar had charged with Cromwell, when he shouted the battle prayer of the warrior king of Israel: "Let God arise, let his enemies be scattered." How inevitable was it therefore that these men should be so saturated with the spirit of the English organic law that it became the basis of our system.

As the mischief of the old constitution was weakness, the great desideratum of the new one was strength. As the old constitution operated on the states, it was determined that the new one should operate immediately through its courts and executive upon the people. As the weakness of the old constitution was ascribable to the fact that it had no implied powers, and no provision either for the enactment of laws to make its express powers effective, and no executive to enforce them, it is difficult to understand how the theory can be accepted that the great thinkers and jurists of the Constitutional Convention would conceive that the incidental powers inherent in government and especially the initiative of the executive, should be wholly disregarded, and that the letter of the constitution itself must be held as ample for all the exigencies which might come to the life of a mighty nation. It turned out that the first century in which this constitution was to be tried, witnessed a gigantic transformation by the use of steam and electricity in the instrumentalities of commerce, government and society such as the world had never known. Fortunate is it indeed that a majority of Americans have believed with Sir James McIntosh that "constitutions are not made, they grow;" that they held with Saint Paul "Not of the letter, but of the spirit; for the letter killeth, but the spirit giveth life." When the occasion arose even those leaders of strict construction, to whom that rule of interpretation was apparently as dear as Papal infallibility to the Holy See, swiftly pocketed their preformed conclusions, trampled on their own doctrines, with vigor and celerity, and as good

Americans should do, acted for the incontestable interest of the country.

The suppression of the Whiskey Insurrection in Pennsylvania by Washington was perhaps the first important instance of the presidential initiative. This convinced the people of the country for the first time that the government was not to be trifled with. It is almost forgotten, but had the president been a weak man, the consequences of the young nation might have been disastrous. But Washington never lost the opportunity to urge upon his countrymen to cultivate the independent national American spirit, and he had little mistrust of the executive power.

A very different man, with very different views, was Thomas Jefferson. He had maintained that the United States government had the *inherent right* to do no act whatever, and was the creature of the states, in union, and its act if not resulting from *expressly* granted power was no act at all, but void and not to be obeyed or regarded by the states. In the Louisiana Purchase he did then according to his theory of the constitution a void act, which was no act at all, and not to be obeyed or regarded by the states. This act however was to give to our country a power, prestige, and magnificence of which Washington perhaps had never dreamed. It added to our domain the vast territory from which have been carved many mighty and populous states. Napoleon had extorted from the Spanish crown retrocession of New Orleans and all that territory west of the Mississippi which was termed Louisiana, and which by a secret treaty had been ceded by France to Spain. The nominal consideration was a trifling Italian principality, the Duchy of Parma. With the mouth of the Mississippi under the control of that incomparable military genius, who had become the embodiment of French aspirations, it would not be long before our country west of the Alleghenies watered by the navigable streams flowing into the great river, would be at the mercy of an alien, intellectual, and antagonistic race. The embarrassment of President Jefferson was very great. So keen was his sense of danger that he at once wrote our minister in Paris: "The day France takes possession of New Orleans, we must marry ourselves to the British fleet and nation. We must turn all our attention to a maritime force, for which our resources place us on very high ground; and having formed and connected a power which may render reinforcement of her settlement here impossible to France, make the first cannon which shall be fired in Europe the signal for the tearing up of any settlement she may have made, and for holding the *two continents of America in sequestra-*

tion for the common purposes of the United British and American nations." Here for you, with a vengeance, are expansion, entangling alliances, and the national idea. But this is not all. On August 12, 1802, he writes to Breckenridge: "The constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our union. The executive, in seizing the fugitive occurrence, which so advanced the good of our country, has done an act beyond the constitution." To his cabinet he said: "I infer the less we say about constitutional difficulties the better, and that what is necessary for surmounting them, must be done *sub silentio*." The familiars of the great strict constructionist treated his apprehensions with marked indifference, and no Jeffersonian democrat, "republicans" as they were then called, questioned what the leaders of the party said. Randolph indeed affirmed that the United States government could lawfully incorporate Great Britain into the union, so far as the constitution was concerned, but added with some degree of superfluity: "We cannot because we cannot." Indeed it was an awful day for the theorists and doctrinaires, who denied to the government of the United States that substantial power, the acquisition of territory essential to the march of empire, which had characterized the government of our race from the earliest time, and which our colonial ancestors, and our government of recent years has so amply illustrated toward the aboriginal inhabitants of this country. For some generations the irreverent have perpetrated the old saw that the Pilgrim Fathers themselves, on landing, first "fell upon their knees and then fell upon the aborigines." And in Georgia we have a healthy body of anti-expansionists, whose grandsires, despite the treaties of our government with the Cherokee Indians, and solemn decisions of the Supreme Court of the United States, swiftly divested them of their vast holdings in that state, and sent these noble savages, to use the illustration of a Georgia evangelist, "humping down the road" toward the setting sun. It should be remembered also that when the Louisiana Purchase was made that the government framed for it by Mr. Jefferson's majority in Congress was in all respects monarchical, and Mr. Jefferson himself was constituted the monarch.

A disciple of Mr. Jefferson was President James Monroe. His exercise of the presidential initiative was quite as marked as that of his teacher and famous predecessor. Its effects upon the fortunes of our country have been perhaps not less significant. It was the preparation of that message containing those memorable words expressive of what since then has been termed the "Monroe Doc-

trine." It bore directly against the plans of hostile invasion to be directed by the Holy Alliance against those who were struggling for liberty in the southern continent of that hemisphere discovered by Columbus. It declared that we, that is the American people, "should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety." The succeeding proposition was more definite. It declared that the American continents, by the free and independent condition which they had assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European powers. The initiative of the president was but expressive of the spirit of the people. Said an American historian: "he put the fire into those few momentous though moderate sentences and made them glow like the writing at Belshazzar's Feast." But for this or equivalent action, who can question that Mexico, Central and South America, the West Indies, the islands of the Carribean sea, and our Pacific slope itself would have been parceled out and populated from the teeming millions, and marked by the militarism, the fortifications, the naval depots of that grand old world beyond the deep. Then a landing on our shores would have been as easy of accomplishment and as dangerous in result as that of the Norman conquerors on the shores of the English channel. The Monroe Doctrine is now incontestably a part of the unwritten constitution of our country.

The initiative of the president has not only saved us from serious and continued danger of foreign aggression, but also spared us for many years from the horrors of disunion and civil war at home. "Nullification," declared Professor Sumner, "was the triumph of metaphysical politics." There was nothing in Jackson's character which was antagonistic to the typical Carolinian. Indeed he had many of their attributes and shared many of their opinions. Besides in his address to the nullifiers, while there is no little doubt on the subject, he claimed that he was born within the borders of that famous state. There are, I believe, few men from any southern state who would deny that Jackson was fairly typical of our high-spirited, determined and constant people. Yet I cannot conceive it possible had he been president at the date of the presidential election in 1860, there would have been a serious attempt for the dissolution of the Union. Certain it is that in 1832 his prompt initiative quickly dispelled the metaphysical subtleties of Calhoun. That distinguished man from his place in the Senate introduced resolutions to the effect: "That the states are united parties to the constitutional compact, that

the acts of the general government outside of the defined powers given to it are void, that each state may judge when the compact is broken, that the theory of the people of the United States are now or ever have been united on the principle of the social compact, and as such are now formed into one nation or people, is erroneous, false in history and in reason." Jackson as a metaphysician was not the equal of Calhoun. He, however, promptly laid the premises of his argument by placing a force from the army and navy within striking distance and on December 10th, he issued his famous proclamation to the people of South Carolina. Of this paper Justice Story declares in the appendix to the first volume of his famous commentaries, "that it is entitled to very high praise for the clearness, force and eloquence with which it has defined the rights and powers of the national government." In a public meeting in Faneuil Hall, Daniel Webster, who did not admire Jackson, declared: "I shall give the president my entire and cordial support."

It follows that the initiative of the president in suppressing open and flagrant resistance to the laws of the United States, if need be by the use of the army and navy, became and remains a part of the unwritten law of the American Constitution.

Perhaps the most widely known exercise of the presidential initiative was the "Emancipation Proclamation" of President Lincoln. It is probably true that no man thought worse of the institution of slavery. But Mr. Lincoln's immortal mission was the preservation of the Union. No man knew better than he the temper of the intrepid population of the border states. While they were slave states, at the same time they had aligned the vast majority of their manhood under the flag of their fathers. It is sometimes forgotten perhaps that the southern states in white troops alone, including 3,530 Indians who were slaveholders, contributed to the Union an army twice the numbers of the French, Austrian and Russian armies combined, which sixty years before had met at Austerlitz. Of these the eleven seceding states gave 86,205, and Delaware, Maryland, District of Columbia, Kentucky and Missouri, 260,327 fighting men. About one-third of the officers of southern blood who had been trained at the Military Academy at West Point had from conviction of duty remained to share the fortunes of the stars and stripes. On the majestic fleet of Admiral Dupont which bombarded the Confederate forts at Port Royal, in high command was Percival Drayton of South Carolina. His brother, a brigadier-general of the Confederate Army, commanded the forts on shore. A Confederate, Major Lea, led the attack on Galveston in 1863, and his son, Lieutenant

Lea, was killed on the Harriet Lane. Two Crittendens, Kentuckians, were major-generals in the opposing armies. Colonel Breckenridge of Kentucky, at the battle of Atlanta, became the prisoner of his brother, a general of Confederate Calvary. No man better than Mr. Lincoln knew the character of this border state population. From little Delaware there was the oft-told story from Revolutionary times, how dead game were the "Blue Hen's Chickens." He had read the story of Smallwood's Maryland battalion of macaronies and dandies, who at Long Island under the eye of Washington, while covering the retreat of his shattered forces, stood upwards of four hours with firm and determined countenance in close array, their colors flying, the enemy's artillery playing on them all the while, but not daring to advance and attack them though six times their number. There too was the fighting strain, never in this world surpassed, of the men from the "dark and bloody ground," the land of Kenton, Harrod, Shelby and Boone, the land where the emancipator himself was born. There too were the rugged mountaineers of Western Carolina and Eastern Tennessee, a simple, stalwart and fearless people, ever idolizing the memory of Washington, who, whether they rode to slay Ferguson and his Tories at King's Mountain, or hurried to the side of Jackson to shoot down the regulars of Packingham at New Orleans, or to Sam Houston at San Jacinto to scatter the army of Santa Anna and wreak a bloody revenge for Goliad and the Alamo, were Americans to whom no other flag was ever comparable to the stars and stripes. To hold such men, to hold the powerful state of Missouri to a swerveless support of that flag, was the necessity, the duty to which Mr. Lincoln consecrated all the intuitions of his mighty statecraft, all of that knowledge of the people by which he has not been surpassed by any man entitled to the name American. He knew—no one more clearly—that the "Emancipation Proclamation," before it was truly necessary to the salvation of the Union, would be probably to withdraw from the Union cause the fighting power which these Union men of slaveholding states against the influence of long habit, kindred, state pride, brethren in blood, were yet devoting to its salvation. About this time Horace Greely through the *New York Tribune* addressed to the president what he termed the "Prayer of Twenty Millions of People." Of this great newspaper it was said by one who knew, that it was in closer touch with the active loyal sentiment of the people than was even the president himself. To Mr. Greely's editorial "petition" Mr. Lincoln thought proper to make public reply: "As to the policy I seem to be pursuing as you say," he wrote, "I have not meant to

leave any one in doubt. I would save the Union. If there be those who would not save the Union unless they could at the same time save slavery, I do not agree with them. My paramount object is to save the Union, not either to save or destroy slavery. If I could save the Union without freeing any slave I would do it, and if I could save it by freeing all the slaves I would do it. If I could save it by freeing some and leaving others alone I would also do that. I shall do less whenever I believe what I am doing hurts the cause and shall do more when I believe doing more will help the cause. I intend no modification of my oft-expressed wish that all men everywhere could be free."

All the while the Emancipation Proclamation had been written. It was lying in his desk when he was writing to Horace Greely. Finally, late in July or early in August, 1862, he informed his cabinet that he was going to communicate to them something about which he did not desire them to offer any advice since his determination was taken. He was advised by Mr. Seward to await a military success. The battle of Antietam did not serve the purpose with entire completeness, but it was made to do. Mr. Lincoln afterwards said: "When Lee came over the Potomac I made a resolve if McClellan drove him back I would send the proclamation after him. The battle of Antietam was fought Wednesday, but I could not find out until Saturday whether we had won a victory or lost a battle. It was then too late to issue it on that day, but on Sunday I fixed it up a little and on Monday I let them have it."

It is I believe little understood, especially in that portion of our country where I live, that this illustrious American even now, again returned to the plan which he had ever urged for gradual compensated emancipation, and the colonization of the emancipated negroes. According to his plan it would do away with slavery entirely by the year 1900. It would make emancipation a voluntary process instead of a severe war measure; it would inflict little if any loss on the slaveholders. It would restore good feeling. All it would cost, he urged, would be less than the additional cost of the war. It is much, very much, he said, that it would cost no blood at all. That the country did not listen to him was not his fault. A bill passed the House appropriating ten millions of dollars to compensate the slave owners of Missouri. The Senate amended by making it fifteen million dollars. The Missouri delegation defeated it. These statesmen were personally acquainted with the slaves, but had not seen the bonds. Mr. Lincoln was greatly disappointed at its failure. He said that bonds were better than bondsmen and that two-legged

property was a very bad kind to hold. He had hoped that Missouri would lead a procession of slave states, accept payments for their slaves, and reassume their positions in the reunited country. And so it was; instead of six per cent bonds of the United States which were offered them, the people interested retained an asset whose value it was soon seen was liable to some depreciation. Thus it is made clear that the initiative of the American president had reclaimed fifteen millions of men from bondage. It incorporated into our constitution the spirit of the ancient law of England. This in the language of Curran makes liberty commensurate with and inseparable from the British soil: "No matter in what language his doom may have been pronounced; no matter what complexion incompatible with freedom an Indian or an African sun may have burned upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted upon the altar of slavery; the first moment he touches the sacred soil, the altar and the god sink together in the dust; his soul walks abroad in her own majesty; his body swells beyond the measure of his chains that burst from around him, and he stands redeemed, regenerated and disenthralled by the irresistible genius of universal emancipation."

Nor, let me add, does there remain a trace of regret or resentment for such emancipation in the hearts of the people whom I love, and among whom in my far Southern home it is my happiness to live.

In nothing does the stupendous power of our national government so plainly appear as in the swiftness and completeness with which the mandate of the president is obeyed. Even by that "many-headed monster, the mob," he is instantly acknowledged as the representative of the power and might of the American people. And nowhere in our country was this made more plainly apparent than by the instantaneous submissiveness of the rioting and destructive thousands of Chicago, under the quiet but resolute intervention of President Cleveland. In the Debs case this power was discussed by the Supreme Court of the United States. Said Justice Brewer for the court: "The entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights entrusted by the constitution to its care. The strong arm of the national government may be put forth to brush away all obstructions to the freedom of interstate commerce or transportation of the mails. If the emer-

gency arise, the army of the nation, and all its militia, are at the service of the nation to compel obedience to its laws."

Much was said of usurpation on the part of the president. Little concern did this awaken. Well do the American people know the exigencies of modern commerce and intercommunication between the people of the states. They know that wherever interstate commerce goes, there goes the power of the Union. They know that lawless obstruction of their shipments in transit may inflict upon them calamities for which there can be no adequate redress. They are well aware that state sovereignty, however attractive in theory, or formidable in expression, ceases to be operative as their products on the way to market are rolled over the state lines. Not with dismay, but with exultation then, does the Georgia planter or fruit grower, or the New England manufacturer, reflect that his bales of cotton and his carloads of fruit or machinery are under the direct and protective initiative of the president, and will in need be guarded by every bayonet that gleams around the flag. They believe with James Madison and thank God for the demonstrated fruition of the belief that the government of the Union is an institution to make people do their duty. And they are coming to know that of all others the president himself—and this is the mighty source of his influence and power—is the direct representative of all who are sheltered or inspired by the flag of the freeman's home and hope.

When the fires are drawn from the mighty furnaces, when the hum of machinery is voiceless, when the ringing anvil and the hammer and the saw are silent, when strong men stand idly in the streets, when age and infancy, all unaided, shiver with the winter's cold, when in homes of the plain people where once there was simple comfort and ample food, the father and mother hear the wailing of the little ones, and gaze with tearful eyes on their pinched and pallid features and know that no help can come, that the strike is on, that the fight is to the death, when will it ever again be denied that the American president may not offer his temperate counsels, that he may not bring the quiet but all-powerful and righteous influence of his mighty station to accomplish a just arbitrament, at once to rescue the perishing poor, and win the approbation of that resistless public opinion for those industries whose prosperity is essential at once to capital, to labor and to the nation as well.

Our convention for the construction of the Isthmian Canal had been held up by Andean caterans at Bogota. Through the prompt and possibly the indignant initiative of the president, the deliberate approbation of the Senate, and the voice of the people expressed

through their representatives, the thronging marts of commerce along the Atlantic coast, as if by some cataclysm of nature, will be transported fourteen thousand miles nearer to the unsupplied millions of the Orient. We will, as said by another, "project the Pacific into the heart of the continent." We will save ten thousand miles in distance and fifty days by steamer between New York and San Francisco. We will subtract the entire width of the Pacific from the distance by ship from New York or Boston to Hongkong or Yokahama. In time of need our steel-clad fleets which sweep either ocean may be swiftly concentrated to protect the people of either American coast.

Where in the annals of time is recorded a precedent like this? "The people of Cuba," said the president, "having framed a constitution embracing the foregoing requirements and having elected a president who is soon to take office, the time is near for the fulfilment of the pledge of the United States to leave the government and control of the island of Cuba to its people." *Cuba libre*, whose last defender had sunk beneath the Spanish sword, whose piteous reconcentrados by the thousands had starved in corrals of barbed wire, with pestilence banished, with sustentation given, clothed and in its right mind, yet sheltered by his golden plumes and guarded by the eagle's restless glance, takes its place among the redeemed and disenthralled nations of earth.

The establishment of civil government in the Philippines; the revocation of the Clayton-Bulwer treaty; the firmness and skill which spared irresponsible Venezuela the ravages of destructive war with Germany and Great Britain; the settlement of the Alaskan boundary which for nearly a generation had threatened the peace of the country; the maintenance of the integrity of China and of the open door for our commerce in the East; the impartial and effective counsels offered in the Moroccan Conference; the initiative taken for the protection of the territorial integrity of that empire; the restriction of the arena of combat in that fearful struggle; the protection of the helpless and pathetic millions of China from the devastating swarms from the Northern hive; all begun by the president's initiative, or with his approval, and executed in effective detail by the accomplished statesmen he has gathered around him in the cabinet; surely these great measures, or indeed any of them, will amply justify the surpassing acclamation recently accorded him by a proud and grateful people.

That he has detractors, as bitter as unrestrained, is true. This for a time is the reward of most who confer blessings upon their fel-

low men. That he has had embarrassments for the time distressing is also true. The cause is not obscure. Had the measures against the whisky insurrection been given in control to Albert Gallatin, the Monroe Doctrine to the Holy Alliance, the suppression of nullification to John C. Calhoun, the conduct of the war to Clement L. Vallandigham, a righteous people may conclude that embarrassment might have confounded or detraction assailed the blameless purposes and unstained honor of a Washington or Monroe, a Jackson or Lincoln. And what is the result? It is known of all men. It is the enactment of a series of mighty measures of legislation, the determination of the character of the Isthmian Canal, the creation of a national quarantine, the effective control of rates for interstate transportation, the pure food law, and the meat inspection law, vital, salutary, enduring in their effect, rivaling, if not surpassing the most practical accomplishments of government in any country or in any age, and all, against opposition the most powerful, accomplished in a half session of one Congressional term.

One other illustration and I have done. On antipodean soil and waters, less than a year gone, Russia and Japan were in the deadliest grapple of furious and murderous warfare. While the conflicts have been frequent, and the slaughter terrible, between the opposing armies there is yet little disparity of numbers. On one side are arrayed the huge men of that fierce Slavonic race, from whose regions of ices and snows in centuries past many devastating armies have gone forth to prey on fairer lands. Said the historian, Alison: "The meanest peasant in Russia is impressed with the belief that his country is destined to subdue the world. The rudest nomad of the steppes pants for the period when a second Timour is to open the gates of Durbend and let loose upon Southern Asia the long pent-up forces of the northern wilds." In 1842 the same historian predicted that in 1900, Russia would have a population of 120,000,000. In 1900, its population was 136,000,000. It is a brave and warlike people. The thunder of their artillery in the environs of Paris sounded the death knell of Napoleon's empire. They have tethered their horses and kindled their bivouac fires in the garden of the Tuileries, and amid the ancient ruins which encompass that famous city on the Golden Horn, which had witnessed the decline of the Roman, and the rise of the Moslem empire. Confronting them were the forces of the island kingdom, the little brown men of Nippon. To declare of that marvelous army that its officers and privates were heroes to a man, is but imperfectly to state the fierce love of country, the hunger for military glory, the strange joy in battle, and the terribly efficient

skill with which these intrepid islanders handle the deadliest weapons of modern war. To the amazement of the world, in not a single conflict have they been defeated. Their torpedo squadron dashes into Port Arthur and shatters the battleships of Russia. Their unintermitting assault upon that Gibraltar of the East destroys its exterior defenses. Inch by inch, and foot by foot, with bayonet, rifle and hand grenade they drive the Russians into their interior lines. By desperate and successive advances their guns now command the harbor of the besieged city. They sink the last of the Russian fleet and Port Arthur falls. The entire force of Japan is now concentrated upon the Russian army in the field. No skill of scientific entrenchment, no hail of explosives, no mitraille from machine gun, shell fire, or rifles stop the little brown men. They drive the gigantic Russian army from Mukden, the ancient city of the Tartar kings. Russia is now fighting for its very life. Vladivostok, proudly named "Dominator of the East," is in danger. In the meantime the last fleet of Russian battleships has come around the world to raise the blockade of Port Arthur, and to sever the army of Japan from its base of supplies. But there is Togo. In swift encounter, gunfire, torpedo fire, hiss of shells, roar of bursting boilers, explosions of magazines, cries of the dying, the Russian fleet sinks beneath the waters of Japan. The world stands aghast. Then intervenes the great impulsive heart, the immovable will, the mighty influence of the president of our country. The belligerents hear his benignant offer, his unselfish prayer. An armistice is declared. The plenipotentiaries meet in a quiet New England town. At times it seems as if all efforts are vain. The president perseveres. From his own simple home he is in constant touch with the representatives of Russia and Japan, with the emperor and the czar. He imparts to them a share of the broad, kindly and humane motives which inspire him. The nations of the world, with expectancy beyond compare, regard the unwonted scene. With the sympathy of a mighty people and the prayers of good men of every faith, it is not possible that he shall fail. And finally, the triumph for humanity comes, and peace to bleeding, starving and agonized millions.

The measure of his reward is the comforting assurance of the gentle Master: "Blessed are the peacemakers for they shall be called the children of God." And as it upheld him, gave him all confidence and trust, and sustained him, in that reward his country shall ever share. "Length of days is in her right hand, and in her left hand riches and honor. Her ways are ways of pleasantness and all her paths are peace."

Hon. Emory Speer.